

sales price of the property during the preceding 12 months (as evidenced by the contract of sale). At HUD's discretion, such documentation must include, but is not limited to, an appraisal from another appraiser. HUD may exclude re-sales of less than a specific dollar amount from the additional value documentation requirements.

(iii) If the additional value documentation supports a value of the property that is more than 5 percent lower than the value supported by the first appraisal, the lower value will be used to calculate the maximum mortgage amount under §203.18. Otherwise, the value supported by the first appraisal will be used to calculate the maximum mortgage amount.

(iv) HUD will announce its determination to require additional value documentation through issuance of a FEDERAL REGISTER notice. The requirement for additional value documentation may be established either on a nationwide or regional basis. Further, the FEDERAL REGISTER notice will specify the percentage increase in the re-sale price that will trigger the need for additional documentation, and will specify the acceptable types of documentation. The FEDERAL REGISTER notice may also exclude re-sales of less than a specific dollar amount from the additional value documentation requirements. Any such FEDERAL REGISTER notice, and any subsequent revisions, will be issued at least thirty days before taking effect.

(v) The level at which additional documentation is required under §203.37a(b)(4) shall supersede that under §203.37a(b)(3).

(5) *Re-sales occurring more than 12 months following acquisition.* If the re-sale date is more than 12 months following the date of acquisition by the seller, the property is eligible for a mortgage insured by FHA.

(c) *Exceptions to time restrictions on re-sales.* The time restrictions on re-sales described in paragraph (b) of this section do not apply to:

(1) Re-sales by HUD of Real Estate-Owned (REO) properties under 24 CFR part 291 and of single family assets in revitalization areas pursuant to section 204 of the National Housing Act (12 U.S.C. 1710); and

(2) Re-sales of properties purchased by an employer or relocation agency in connection with the relocation of an employee.

(d) *Sanctions and indemnification.* Failure of a mortgagee to comply with the requirements of this section may result in HUD requesting indemnification of the mortgage loan, or seeking other appropriate remedies under 24 CFR part 25.

[68 FR 23375, May 1, 2003]

§ 203.38 Location of dwelling.

At the time a mortgage is insured there must be located on the mortgaged property one or more dwellings designed principally for residential use for not more than four families.

[61 FR 36264, July 9, 1996]

§ 203.39 Standards for buildings.

The buildings on the mortgaged property must conform with the standards prescribed by the Commissioner.

§ 203.40 Location of property.

The mortgaged property shall be located within the United States, Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa. The mortgaged property, if otherwise acceptable to the Commissioner, may be located in any community where the housing standards meet the requirements of the Commissioner.

[49 FR 12697, Mar. 30, 1984, as amended at 61 FR 36264, July 9, 1996]

§ 203.41 Free assumability; exceptions.

(a) *Definitions.* As used in this section:

(1) *Low- or moderate-income housing* means housing which is designed to be affordable, taking into account available financing, to individuals or families whose household income does not exceed 115 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families. The Secretary may approve a higher percentage up to 140 percent.

(2) *Eligible governmental or nonprofit program* means a program operated pursuant to a program established by Federal law, operated by a State or local